

My name is Donald McGrath.

I'm here today because I wanted to tell you all a little bit about my business and how it relates to the proposed legislation. The name of my business is the Blue Midnight Hookah lounge, located in East Lansing. We opened here in East Lansing less than a year ago. My wife, my brother and I are the three owners. It is our first business venture together, and we are enjoying the time that it has provided for us to spend together. Our business is a hookah lounge. For those of you who are not familiar with this type of business, a hookah lounge is a place where people come to smoke flavored tobacco out of middle eastern style water pipes. We are, in essence, a smoking lounge. While we are the only such business in the Lansing area, there are other similar businesses in various parts of Michigan, including the Grand Rapids area, Novi, Detroit, and Dearborn.

First of all, I want to thank you for considering legislation that will protect non-smokers from unsolicited and unwanted second hand smoke. The reason why I am speaking here today is to make clear that our business falls outside of the intended purpose of this legislation, and that we therefore should be exempted from it.

We are a smoking lounge. Our clientele consists exclusively of smokers. The issue of transference of unwanted second hand smoke to non-smokers is not an issue in our business, because smoking is the explicit purpose of coming to our establishment. Non-smokers would not and do not visit our establishment.

Under this legislation in its current form, our customers would not even be permitted to have a glass of water. I hope it is clear why this type of scenario would be devastating for my family's business. While smoking in our establishment, we offer our customers the option of purchasing non-alcoholic bottled beverages and snacks.

While people come to other businesses to eat and drink, that is not the case with our establishment. Food and beverages constitute a very small percentage of our total bottom line.

That being said, it's vital to our business that we be allowed to offer beverages and snacks as a service to our customers since the average patron typically spends anywhere from 1-2 hours in our place of business.

I am here today to request an exemption from this legislation for our business and for any other establishment that makes a majority of its profits directly from the sale of tobacco products. The precedence for allowing such an exemption is nearly universal. There are currently seventeen states, as well as the District of Columbia, that have smoke free restaurants and bars. Nearly every other statewide smoke free law has provisions that exempt tobacco based establishments.

States that have passed comprehensive statewide clean air legislation and which allow exemptions for tobacco based establishments include Arizona, California, Colorado, Connecticut, Hawaii, Maryland, Maine, Massachusetts, New York, Nevada, New Jersey, Ohio, Rhode Island, and Washington, D.C. States such as Pennsylvania, which have pending statewide clean air legislation, also include exemptions for business which derive a majority of their sales from tobacco products.

As you can see, almost every state that has passed comprehensive no-smoking laws has included exemptions for tobacco based establishments. While the precise wording in these bills and initiatives differ, the exemptions they allow are all designed with the same purpose in mind: To allow businesses that make a majority of their profits directly from the sale of tobacco products to remain in business, and not inadvertently get caught up in legislation that does not intend to put businesses out of business, but is instead designed to ensure that the health and well-being of nonsmokers is protected.

By definition, our business falls outside of the intended purpose of this legislation because those who come to our establishment do so with the explicit intention and purpose of smoking.

Despite the controversy surrounding this legislation, if other states are to serve as any example, most businesses will survive and likely thrive under this legislation. Our business, however, most certainly will not survive this legislation. In its current form, this legislation will shut our doors the day it goes into effect. I ask you to consider exempting businesses establishments that make the majority of their sales from tobacco products from this legislation.

SEE THE ABBREVIATED EXEMPTION LANGUAGE BY STATE, NEXT PAGE

States that have passed comprehensive no-smoking legislation nearly universally exempt business that make the majority of their profits from the sale of tobacco products.

Arizona

Exempts any business establishment that derives the majority of its sales from tobacco products and accessories.

Sections 36-601.01 and 42-3251.02, state statutes

California

Exempts any business establishment where the main purpose of which is the sale of tobacco products.

Sections 6404 & 6404.5, labor law

Colorado

Exempts any cigar or tobacco bars that generate five percent or more of their annual gross income from the on-site sale of tobacco products.

House Bill 06-1175, "Colorado Clean Indoor Air Act"

Connecticut

Exempts tobacco bars that generates ten per cent or more of their total annual gross income from the on-site sale of tobacco products.

Sec. 19a-342, Nuisances and Public Places

Hawaii

Exempts any establishment used primarily for the sale of tobacco products and accessories.

Senate Bill 3262

Maine

Exempts any retail business in which at least 60% of the business's gross revenue for the last calendar year was derived from the sale of tobacco or tobacco-related products.

Title 22:Health and Welfare, Chapter 262: Smoking §1541

Maryland

Exempts all business in which the primary activity is the sale of tobacco products and the sale of other products is incidental to the primary purpose.

Senate Bill 91

Massachusetts

Exempts any establishment that that is primarily engaged in the retail sale of tobacco products for consumption by customers on the premises; derives revenue from the sale of

food, alcohol or other beverages that is incidental to the sale of the tobacco products; and prohibits entry to a person under the age of 18 years of age during the time when the establishment is open for business.

Chapter 270: Section 22, Smoking in public places.

Nevada

Exempts businesses utilized primarily for the sale of tobacco products and accessories in which the sale of other products is incidental to the primary purpose.

NRS 202.2483

New Jersey

Exempts any establishment designed specifically for the smoking of tobacco products.

State law, Chapter 383

New York

Exempts any establishment in which the primary activity is the retail sale of tobacco products and accessories, and in which the sale of other products is incidental to the primary purpose.

§ 1399-n

Ohio

Any retail establishment that derives more than eighty percent of its gross revenue from the sale of tobacco products.

State law, Chapter 3794

Rhode Island

Exempts smoking bars which allow consumption of food and beverages sold by the establishment on the premises only, and in which the sale of tobacco products is greater than the total combined revenue generated by the serving of beverages and food.

R23-20.10

Washington, D.C.

Exempts any establishment that generates 10% or more of its total annual revenue from the on-site sale of tobacco products.

Title 20: DCMR (Environment)

*Other states with pending comprehensive legislation (such as Pennsylvania) also include exemptions for business that derive a majority of their profits directly from the sale of tobacco products.